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IN THE DRAWINGS

Amendments to the Drawings

Please enter the amendments to the drawings as in the attached Replacement Sheet.

Figure 4 is editorially amended to correct formal objections to the drawings only. No new matter has been added.

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REMARKS

Favorable reconsideration is respectfully requested in view of the above amendments and following remarks. Figure 4 has been editorially amended to correct a misspelling. A Replacement Sheet for Figure 4 is submitted herewith. Claim 9 has been amended to remove the multiple dependency, and claims 4 and 11 have been editorially amended. No new matter has been added. Claims 1-13 are pending.

The drawings are objected to for informalities. Applicants hereby submit a Replacement Sheet of Figure 4 revising the misspelling "ber" to the correct spelling "bar." (See for example page, 13, lines 4-6.) Applicants respectfully submit that the Drawings are in proper form.

Withdrawal of the objection is respectfully requested.

Claim 9 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. The rejection is rendered moot, as claim 9 has been amended to remove the multiple dependency.

Withdrawal of the objection is respectfully requested.

Claims 1-7 are rejected under 35 U.S.C 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection to the extent it is maintained.

Line 10 of claim 1 includes the term "comprises" as proper transitional language. Thus, Applicants respectfully submit that claim 1 and dependent claims therefrom are definite.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1-6, 8, and 10-13 are rejected under 35 U.S.C 103 (a) as being unpatentable over Hammer et al. (U.S. Patent Application US 2001/0051377 A1). Applicants respectfully traverse this rejection to the extent it is maintained.

Claim 1 is directed to a measuring equipment including a measurement condition storage means and an operation control means. The operation control means decides whether a cartridge container is a special-purpose cartridge container or a general-purpose cartridge container. Claim 1 recites that, when the cartridge container is a

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special-purpose cartridge container, a measurement is conducted according to measurement conditions read out from the measurement condition storage means and based on information included in the information carrier of the special-purpose cartridge. When the cartridge container is a general-purpose cartridge container, an instruction from the measurement condition storage means is outputted to select items for measurement.

Claim 8 is directed to a measuring method that includes deciding whether a cartridge container is a special-purpose cartridge container or a general-purpose cartridge container. When the cartridge container is a special-purpose cartridge container, a measurement is conducted, and when the cartridge container is a general-purpose cartridge container, an instruction is outputted to selected items for measurement.

Claims 10 and 11 each are directed to a program recording medium. Claim 10 recites a control program deciding whether a cartridge container is a special-purpose cartridge container or a general-purpose cartridge container. When the cartridge container is a special-purpose cartridge container, a measurement is conducted, and when the cartridge container is a general-purpose cartridge container, an instruction is outputted to selected items for measurement. Claim 11 recites a control program deciding whether measurement conditions to be stored in a measurement condition storage means are measurement conditions related to a measurement using a special-purpose cartridge container, or are measurement conditions related to a measurement using a general-purpose cartridge container. Based on the decision result, the measurement conditions are stored to different areas of the measurement condition storage means.

The features of claims 1, 8, and 10-11 provide advantageous results where measurements may be taken such that both general-purpose and special-purpose cartridge containers may be used. That is, measurements may be taken from a predetermined cartridge container, which is excellent for general purpose measurement, while maintaining the smaller dimensions and automated characteristics of special purpose measurement. (See for example page 2, lines 20-25 and page 25, lines 32-36.) The claimed invention provides advantages of high versatility. Hammer et al., however, does not render claims 1, 8, and 10-11 obvious.

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While Hammer et al. is directed to a cartridge-based analytical instrument, the cited reference does not teach or suggest the features of the claimed invention. Hammer et al. provides cartridges that are preloaded with samples and reagents. (Paragraph [0008].) The cartridges have labels with bar codes that are read to provide input of data specific to the particular cartridge. (Paragraph [0061].) Further, Hammer et al. requires a tracking and control unit which uses the information on the label to control and coordinate a rotary drive mechanism, so that the optical detector can make measurements while the cartridge rotor is stationary or rotating. (Paragraph [0061] and Abstract.) That is, Hammer et al. appears to be directed to a cartridge based analytical instrument for special-purpose cartridges, and requires labels for its tracking and control unit to properly function.

As noted, Hammer et al. is silent about labeling specific-purpose cartridges and not labeling general-purpose cartridges. In fact, Hammer does not disclose or suggest making any distinctions between special-purpose and general-purpose cartridges. Hammer et al. does not teach or suggest an operation control means, as required by claim 1, that decides whether a cartridge container is a special-purpose cartridge container or a general-purpose cartridge container. The cited reference does not teach or suggest a method or control program including making the same decision as required by claims 8 and 10, respectively. Furthermore, Hammer et al. does not teach or suggest a control program deciding whether measurement conditions are related to a measurement using a special-purpose cartridge container, or are related to a measurement using a general-purpose cartridge container. For at least these reasons, Applicants respectfully submit that claims 1, 8, and 10-11 are not obvious in view of Hammer et al.

Further, there is no reasonable suggestion to modify Hammer et al. to lead to the features claimed, and there is no reasonable expectation of success that Hammer et al. could arrive at the features claimed. As noted, Hammer et al. requires a tracking and control unit which uses the information on the label to control and coordinate a rotary drive mechanism, so that the optical detector can make measurements while the cartridge rotor is stationary or rotating. (Paragraph [0061] and Abstract.) Moreover, as noted, Hammer et al. is silent about labeling specific-purpose cartridges and not labeling

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general-purpose cartridges, and is silent on making any distinctions between special-purpose and general-purpose cartridges. Thus, there is no reasonable suggestion that Hammer et al. would modify its instrument to carry out features of distinguishing between special-purpose and general-purpose cartridges. Further, one of skill in the art would not expect the apparatus of Hammer et al. to have such capability, based on the teachings of Hammer et al., because the presence of an optical element (i.e. label and bar code) appears critical to the tracking and control unit of the apparatus. In fact, modifying the apparatus of Hammer et al. in a manner as the rejection states would alter the function of the apparatus. Thus, Applicants respectfully submit that claims 1, 8, and 10-11 are not obvious in view of Hammer et al. for at least these reasons.

Moreover, only by hindsight and impermissible use of Applicants' disclosure may Hammer et al. arrive at the features claimed. As noted, Hammer et al. is silent about labeling specific-purpose cartridges and not labeling general-purpose cartridges, and the cited reference is silent on making any distinctions between special-purpose and general-purpose cartridges. Further, as noted, there is no suggestion to modify Hammer et al. and one of skill in the art would not reasonably be expected to be successful to arrive at the features claimed using Hammer et al. alone. Thus, Applicants respectfully submit that only by creating a nexus of Applicants' disclosure with Hammer et al. may the features claimed be derived. For at least this reason, Applicants respectfully submit that claims 1, 8, and 10-11 are not obvious in view of Hammer et al.

For the foregoing, Applicants respectfully submit that Hammer et al. does not teach or suggest the features of claims 1, 8, and 10-11, and would not lead to the advantages enjoyed thereby. Accordingly, claims 1, 8, and 10-11 and dependent claims therefrom are allowable over Hammer et al.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

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Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammer et al. (above) in view of Peterson et al. (U.S. Patent Application Publication No 2001/0012612 A1).

As above, claim 1 has been distinguished from Hammer et al. Claim 7 depends upon claim 1, and is allowable over Hammer et al. for at least the same reasons with respect to claim 1. Peterson et al. does not remedy the deficiencies of Hammer et al. Thus, claim 7 is allowable over any combination of Hammer et al. and Peterson et al. Applicants do not concede the correctness of the rejection. Applicants reserve the right to present additional arguments with respect to claim 7 at a later time.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above, Applicants believe that this application is in a condition for allowance. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested. If any further questions arise, the Examiner is invited to contact Applicants' representative at the number listed below.

Dated: September 2, 2005



DPM:BAW:unt

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Douglas P. Mueller". The signature is written over a horizontal line.

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